

**REMARKS**

Please reconsider the application in view of the above amendments and the following remarks. Applicants thank the Examiner for indicating that the drawings are accepted, initialing the information disclosure statement filed on July 17, 2006, indicating that the priority documents are received, and for carefully considering this application.

**Disposition of the Claims**

Claims 1-12 were pending in this application. Claims 13-18 are newly added by way of this reply. Of the claims as amended, claims 1, 5, and 13 are independent. The remaining claims depend, directly or indirectly, from claims 1, 5, and 13.

**35 U.S.C. §112, sixth paragraph**

In the Office Action dated October 2, 2008, the Examiner requested that the Applicants indicate whether the “means” language in the claims (*i.e.*, 1, 2, 4-5, 7-10, and 12) is to invoke 35 U.S.C. §112, sixth paragraph. The “means” language in the claims of the present application invokes 35 U.S.C. §112, sixth paragraph. Accordingly, Applicants respectfully request that the Examiner interpret the claims under 35 U.S.C. §112, sixth paragraph.

**Claim Amendments**

Claims 1, 5, and 10-12 are amended by this reply. Specifically, claims 1-5 are amended to clarify the invention. Claims 10-12 are amended to correct typographical error. Support for the amendments may be found, for example, on p.1, ll. 6-9 (stating that “an electronic

transaction is for example a payment transaction enabling payment of goods at a merchant store...” (i.e., the customers are within the physical vicinity of the merchant)). No new subject matter is added by way of these amendments.

### **Rejection under 35 U.S.C. § 103(a)**

MPEP §2143 states that “[t]he key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious.” Further, the Supreme Court in *KSR International Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1739, 75 U.S.L.W. 4289 (2007) noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. *See* MPEP §2143. The analysis presented by the Examiner to support the rejection of the claims under 35 U.S.C. § 103 in the Office Action dated October 2, 2008 indicates that the Examiner found no differences between the cited prior art and the claims besides a lack of the actual combination of the elements in a single prior art reference, *i.e.*, that the Examiner is relying solely on the teachings of the prior art. *See, e.g.*, MPEP § 2143(A). Applicants respectfully assert that all of the elements of the amended claims are not found in the cited prior art.

#### *Claims 1, 2, 4, 5, 7, 9, 10, and 12*

Claims 1, 2, 4, 5, 7, 9, 10, and 12 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent Pub. No. 2004/0019564 (“Goldthwaite”) in view of International Publication No. WO 03/067530 (“Inotay”). To the extent that this rejection applies to the amended claims, this rejection is respectfully traversed.

Claim 1 is directed to a system for performing electronic transactions. The system includes a human interface module and a hosting means. The human interface module includes a keypad, a display, a card reader, a first processing means and an internal bus for connecting the keypad, the display, the card reader and the processing means. The hosting means includes a scheduler means, a second processing means, a memory, a communication means and a power supply. The human interface module is located in a transaction terminal. Claim 1 requires, in part, that the transaction terminal is used for transactions between a merchant and the merchant's customers while the customers are within the physical vicinity of the merchant. For example, the customers may be at the merchant's store. Claim 5 includes similar limitations as claim 1.

Turning to the rejection, Applicants respectfully assert that Goldthwaite and Inotay fail to teach or suggest a transaction terminal that is used for transactions between a merchant and the merchant's customers while the customers are within the physical vicinity of the merchant. Specifically, Goldthwaite is directed to transactions performed over the Internet. *See, e.g.,* Goldthwaite, Figure 1, Figure 2, and Abstract. When a transaction is performed over the Internet, the customer is not in the physical vicinity of the merchant. Rather, the customer is located remotely from the merchant and may only view the merchant's website. Moreover, the customer's mobile phone, which the Examiner improperly equates to a transaction terminal, is only available for use by a single customer. *See, e.g.,* Office Action dated October 2, 2008, p. 3. Because Goldthwaite is directed to transactions that are performed remotely using a device of a single customer, Goldthwaite fails to teach or suggest a transaction terminal that is used for transactions between a merchant and the merchant's customers while the customers are within the physical vicinity of the merchant as required by claims 1 and 5.

Further, Inotay fails to teach or suggest that which Goldthwaite lacks. Specifically, Inotay is directed to allowing a client to pay bills using the client's mobile phone. *See, e.g.*, Inotay, p. 2, ll. 9-12. In Inotay, the mobile phone is used by a single customer (*i.e.*, the client) (and only available for use by the single customer), and the customer is remote from the merchant. Inotay is also silent with respect to a transaction terminal that is used for transactions between a merchant and the merchant's customers while the customers are within the physical vicinity of the merchant as required by claims 1 and 5.

In view of the above, Goldthwaite and Inotay, whether considered together or separately, fail to teach or suggest all of the limitations of claims 1 and 5. Dependent claims 2, 4, 7, 9, 10, and 12, which directly or indirectly depend from claims 1 and 5, are allowable for at least the same reasons. Withdrawal of this rejection is respectfully requested.

Claims 3, 6, 8, and 11

Claims 3, 6, 8, and 11 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Goldthwaite in view of Inotay, and in further view of U.S. Patent Pub. No. 2004/0012620 ("Buhler"). To the extent that this rejection applies to the amended claims, this rejection is respectfully traversed.

Claims 3, 6, 8, and 11 depend from claims 1 and 5. As shown above, Goldthwaite and Inotay, whether considered together or separately, fail to teach or suggest all of the limitations of claims 1 and 5. Further, Buhler fails to teach or suggest that which Goldthwaite and Inotay lack. Specifically, Buhler is directed to allowing customers to create multimedia presentations for broadcast over television or the Internet. *See, e.g.*, Buhler, paragraph [0031]. Buhler is also

completely silent with respect to a transaction terminal that is used for transactions between a merchant and the merchant's customers while the customers are within the physical vicinity of the merchant as required by claims 1 and 5.

In view of the above, Goldthwaite, Inotay, and Buhler, whether considered together or separately, fail to teach or suggest all of the limitations of claims 1 and 5. Dependent claims 3, 6, 8, and 11, which directly or indirectly depend from claims 1 and 5 are allowable for at least the same reasons. Withdrawal of this rejection is respectfully requested.

### **New Claims**

New claims 13-18 are newly added by way of this reply. Support for claims 13-18 may be found, for example, in the originally filed claims, on p. 3, ll. 6 - p. 4, ll. 30 and in Figure 1 of the application as filed. No new subject matter has been added by way of this amendment. Newly added independent claim 13 includes similar limitations as claim 5. Accordingly, newly added independent claim 13 is allowable over the cited prior art for similar reasons as claim 5. Dependent claims 14-18 are allowable over the prior art for at least the same reasons as independent claim 13. Favorable action in the form of a notice of allowability is respectfully requested.

**Conclusion**

Applicants believe this reply is fully responsive to all outstanding issues and places this application in condition for allowance. If this belief is incorrect, or other issues arise, the Examiner is encouraged to contact the undersigned or his associates at the telephone number listed below. Please apply any charges not covered, or any credits, to Deposit Account 50-0591 (Reference Number 09669/092001).

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